

**§ 96.342 CAIR NO<sub>x</sub> Ozone Season allowance allocations.**

(a)(1) The baseline heat input (in mmBtu) used with respect to CAIR NO<sub>x</sub> Ozone Season allowance allocations under paragraph (b) of this section for each CAIR NO<sub>x</sub> Ozone Season unit will be:

(i) For units commencing operation before January 1, 2001 the average of the 3 highest amounts of the unit's adjusted control period heat input for 2000 through 2004, with the adjusted control period heat input for each year calculated as follows:

(A) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by 100 percent;

(B) If the unit is oil-fired during the year, the unit's control period heat input for such year is multiplied by 60 percent; and

(C) If the unit is not subject to paragraph (a)(1)(i)(A) or (B) of this section, the unit's control period heat input for such year is multiplied by 40 percent.

(ii) For units commencing operation on or after January 1, 2001 and operating each calendar year during a period of 5 or more consecutive calendar years, the average of the 3 highest amounts of the unit's total converted control period heat input over the first such 5 years.

(2)(i) A unit's control period heat input, and a unit's status as coal-fired or oil-fired, for a calendar year under paragraph (a)(1)(i) of this section, and a unit's total tons of NO<sub>x</sub> emissions during a control period in a calendar year under paragraph (c)(3) of this section, will be determined in accordance with part 75 of this chapter, to the extent the unit was otherwise subject to the requirements of part 75 of this chapter for the year, or will be based on the best available data reported to the permitting authority for the unit, to the extent the unit was not otherwise subject to the requirements of part 75 of this chapter for the year.

(ii) A unit's converted control period heat input for a calendar year specified under paragraph (a)(1)(ii) of this section equals:

(A) Except as provided in paragraph (a)(2)(ii)(B) or (C) of this section, the control period gross electrical output

of the generator or generators served by the unit multiplied by 7,900 Btu/kWh, if the unit is coal-fired for the year, or 6,675 Btu/kWh, if the unit is not coal-fired for the year, and divided by 1,000,000 Btu/mmBtu, provided that if a generator is served by 2 or more units, then the gross electrical output of the generator will be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the year;

(B) For a unit that is a boiler and has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the total heat energy (in Btu) of the steam produced by the boiler during the control period, divided by 0.8 and by 1,000,000 Btu/mmBtu; or

(C) For a unit that is a combustion turbine and has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the control period gross electrical output of the enclosed device comprising the compressor, combustor, and turbine multiplied by 3,413 Btu/kWh, plus the total heat energy (in Btu) of the steam produced by any associated heat recovery steam generator during the control period divided by 0.8, and with the sum divided by 1,000,000 Btu/mmBtu.

(b)(1) For each control period in 2009 and thereafter, the permitting authority will allocate to all CAIR NO<sub>x</sub> Ozone Season units in the State that have a baseline heat input (as determined under paragraph (a) of this section) a total amount of CAIR NO<sub>x</sub> Ozone Season allowances equal to 95 percent for a control period during 2009 through 2014, and 97 percent for a control period during 2015 and thereafter, of the tons of NO<sub>x</sub> emissions in the State trading budget under § 96.340 (except as provided in paragraph (d) of this section).

(2) The permitting authority will allocate CAIR NO<sub>x</sub> Ozone Season allowances to each CAIR NO<sub>x</sub> Ozone Season unit under paragraph (b)(1) of this section in an amount determined by multiplying the total amount of CAIR NO<sub>x</sub> Ozone Season allowances allocated under paragraph (b)(1) of this section by the ratio of the baseline heat input

of such CAIR NO<sub>x</sub> Ozone Season unit to the total amount of baseline heat input of all such CAIR NO<sub>x</sub> Ozone Season units in the State and rounding to the nearest whole allowance as appropriate.

(c) For each control period in 2009 and thereafter, the permitting authority will allocate CAIR NO<sub>x</sub> Ozone Season allowances to CAIR NO<sub>x</sub> Ozone Season units in a State that are not allocated CAIR NO<sub>x</sub> Ozone Season allowances under paragraph (b) of this section because the units do not yet have a baseline heat input under paragraph (a) of this section or because the units have a baseline heat input but all CAIR NO<sub>x</sub> Ozone Season allowances available under paragraph (b) of this section for the control period are already allocated, in accordance with the following procedures:

(1) The permitting authority will establish a separate new unit set-aside for each control period. Each new unit set-aside will be allocated CAIR NO<sub>x</sub> Ozone Season allowances equal to 5 percent for a control period in 2009 through 2014, and 3 percent for a control period in 2015 and thereafter, of the amount of tons of NO<sub>x</sub> emissions in the State trading budget under § 96.340.

(2) The CAIR designated representative of such a CAIR NO<sub>x</sub> Ozone Season unit may submit to the permitting authority a request, in a format specified by the permitting authority, to be allocated CAIR NO<sub>x</sub> Ozone Season allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the CAIR NO<sub>x</sub> Ozone Season unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO<sub>x</sub> Ozone Season allowances under paragraph (b) of this section. A separate CAIR NO<sub>x</sub> Ozone Season allowance allocation request for each control period for which CAIR NO<sub>x</sub> Ozone Season allowances are sought must be submitted on or before February 1 before such control period and after the date on which the CAIR NO<sub>x</sub> Ozone Season unit commences commercial operation.

(3) In a CAIR NO<sub>x</sub> Ozone Season allowance allocation request under paragraph (c)(2) of this section, the CAIR designated representative may request

for a control period CAIR NO<sub>x</sub> Ozone Season allowances in an amount not exceeding the CAIR NO<sub>x</sub> Ozone Season unit's total tons of NO<sub>x</sub> emissions during the control period immediately before such control period.

(4) The permitting authority will review each CAIR NO<sub>x</sub> Ozone Season allowance allocation request under paragraph (c)(2) of this section and will allocate CAIR NO<sub>x</sub> Ozone Season allowances for each control period pursuant to such request as follows:

(i) The permitting authority will accept an allowance allocation request only if the request meets, or is adjusted by the permitting authority as necessary to meet, the requirements of paragraphs (c)(2) and (3) of this section.

(ii) On or after February 1 before the control period, the permitting authority will determine the sum of the CAIR NO<sub>x</sub> Ozone Season allowances requested (as adjusted under paragraph (c)(4)(i) of this section) in all allowance allocation requests accepted under paragraph (c)(4)(i) of this section for the control period.

(iii) If the amount of CAIR NO<sub>x</sub> Ozone Season allowances in the new unit set-aside for the control period is greater than or equal to the sum under paragraph (c)(4)(ii) of this section, then the permitting authority will allocate the amount of CAIR NO<sub>x</sub> Ozone Season allowances requested (as adjusted under paragraph (c)(4)(i) of this section) to each CAIR NO<sub>x</sub> Ozone Season unit covered by an allowance allocation request accepted under paragraph (c)(4)(i) of this section.

(iv) If the amount of CAIR NO<sub>x</sub> Ozone Season allowances in the new unit set-aside for the control period is less than the sum under paragraph (c)(4)(ii) of this section, then the permitting authority will allocate to each CAIR NO<sub>x</sub> Ozone Season unit covered by an allowance allocation request accepted under paragraph (c)(4)(i) of this section the amount of the CAIR NO<sub>x</sub> Ozone Season allowances requested (as adjusted under paragraph (c)(4)(i) of this section), multiplied by the amount of CAIR NO<sub>x</sub> Ozone Season allowances in the new unit set-aside for the control period, divided by the sum determined

under paragraph (c)(4)(ii) of this section, and rounded to the nearest whole allowance as appropriate.

(v) The permitting authority will notify each CAIR designated representative that submitted an allowance allocation request of the amount of CAIR NO<sub>x</sub> Ozone Season allowances (if any) allocated for the control period to the CAIR NO<sub>x</sub> Ozone Season unit covered by the request.

(d) If, after completion of the procedures under paragraph (c)(4) of this section for a control period, any unallocated CAIR NO<sub>x</sub> Ozone Season allowances remain in the new unit set-aside for the control period, the permitting authority will allocate to each CAIR NO<sub>x</sub> Ozone Season unit that was allocated CAIR NO<sub>x</sub> Ozone Season allowances under paragraph (b) of this section an amount of CAIR NO<sub>x</sub> Ozone Season allowances equal to the total amount of such remaining unallocated CAIR NO<sub>x</sub> Ozone Season allowances, multiplied by the unit's allocation under paragraph (b) of this section, divided by 95 percent for a control period during 2009 through 2014, and 97 percent for a control period during 2015 and thereafter, of the amount of tons of NO<sub>x</sub> emissions in the State trading budget under § 96.340, and rounded to the nearest whole allowance as appropriate.

[70 FR 25382, May 12, 2005, as amended at 71 FR 25394, Apr. 28, 2006; 71 FR 74794, Dec. 13, 2006]

### Subpart FFFF—CAIR NO<sub>x</sub> Ozone Season Allowance Tracking System

SOURCE: 70 FR 25382, May 12, 2005, unless otherwise noted.

#### § 96.350 [Reserved]

#### § 96.351 Establishment of accounts.

(a) *Compliance accounts.* Except as provided in § 96.384(e), upon receipt of a complete certificate of representation under § 96.313, the Administrator will establish a compliance account for the CAIR NO<sub>x</sub> Ozone Season source for which the certificate of representation was submitted, unless the source already has a compliance account.

(b) *General accounts*—(1) *Application for general account.* (i) Any person may apply to open a general account for the purpose of holding and transferring CAIR NO<sub>x</sub> Ozone Season allowances. An application for a general account may designate one and only one CAIR authorized account representative and one and only one alternate CAIR authorized account representative who may act on behalf of the CAIR authorized account representative. The agreement by which the alternate CAIR authorized account representative is selected shall include a procedure for authorizing the alternate CAIR authorized account representative to act in lieu of the CAIR authorized account representative.

(ii) A complete application for a general account shall be submitted to the Administrator and shall include the following elements in a format prescribed by the Administrator:

(A) Name, mailing address, e-mail address (if any), telephone number, and facsimile transmission number (if any) of the CAIR authorized account representative and any alternate CAIR authorized account representative;

(B) Organization name and type of organization, if applicable;

(C) A list of all persons subject to a binding agreement for the CAIR authorized account representative and any alternate CAIR authorized account representative to represent their ownership interest with respect to the CAIR NO<sub>x</sub> Ozone Season allowances held in the general account;

(D) The following certification statement by the CAIR authorized account representative and any alternate CAIR authorized account representative: “I certify that I was selected as the CAIR authorized account representative or the alternate CAIR authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to CAIR NO<sub>x</sub> Ozone Season allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the CAIR NO<sub>x</sub> Ozone Season Trading Program on behalf of such persons and that each such person shall be fully bound by my representations, actions,